

Part 1

Risk Manager

63A-4-101 Risk manager -- Appointment -- Duties.

- (1) The executive director shall appoint a risk manager, who shall be qualified by education and experience in the management of general property and casualty insurance.
- (2) The risk manager shall:
 - (a) acquire and administer the following purchased by the state:
 - (i) all property, casualty insurance; and
 - (ii) subject to Section 34A-2-203, workers' compensation insurance;
 - (b) recommend that the executive director make rules:
 - (i) prescribing reasonable and objective underwriting and risk control standards for state agencies;
 - (ii) prescribing the risks to be covered by the Risk Management Fund and the extent to which these risks will be covered;
 - (iii) prescribing the properties, risks, deductibles, and amount limits eligible for payment out of the fund;
 - (iv) prescribing procedures for making claims and proof of loss; and
 - (v) establishing procedures for the resolution of disputes relating to coverage or claims, which may include binding arbitration;
 - (c) implement a risk management and loss prevention program for state agencies for the purpose of reducing risks, accidents, and losses to assist state officers and employees in fulfilling their responsibilities for risk control and safety;
 - (d) coordinate and cooperate with any state agency having responsibility to manage and protect state properties, including:
 - (i) the state fire marshal;
 - (ii) the director of the Division of Facilities Construction and Management;
 - (iii) the Department of Public Safety; and
 - (iv) institutions of higher education;
 - (e) maintain records necessary to fulfill the requirements of this section;
 - (f) manage the fund in accordance with economically and actuarially sound principles to produce adequate reserves for the payment of contingencies, including unpaid and unreported claims, and may purchase any insurance or reinsurance considered necessary to accomplish this objective; and
 - (g) inform the agency's governing body and the governor when any agency fails or refuses to comply with reasonable risk control recommendations made by the risk manager.
- (3) Before the effective date of any rule, the risk manager shall provide a copy of the rule to each agency affected by it.

Amended by Chapter 275, 2006 General Session

63A-4-102 Risk manager -- Powers.

- (1) The risk manager may:
 - (a) enter into contracts;
 - (b) purchase insurance;
 - (c) adjust, settle, and pay claims;
 - (d) pay expenses and costs;

- (e) study the risks of all state agencies and properties;
 - (f) issue certificates of coverage to state agencies for any risks covered by Risk Management Fund;
 - (g) make recommendations about risk management and risk reduction strategies to state agencies;
 - (h) in consultation with the attorney general, prescribe insurance and liability provisions to be included in all state contracts;
 - (i) review agency building construction, major remodeling plans, agency program plans, and make recommendations to the agency about needed changes to address risk considerations;
 - (j) attend agency planning and management meetings when necessary;
 - (k) review any proposed legislation and communicate with legislators and legislative committees about the liability or risk management issues connected with any legislation; and
 - (l) solicit any needed information about agency plans, agency programs, or agency risks necessary to perform the risk manager's responsibilities under this part.
- (2)
- (a) The risk manager may expend money from the Risk Management Fund to procure and provide coverage to all state agencies and their indemnified employees, except those agencies or employees specifically exempted by statute.
 - (b) The risk manager shall apportion the costs of that coverage according to the requirements of this part.
- (3) Before charging a rate, fee, or other amount to an executive branch agency, or to a subscriber of services other than an executive branch agency, the director shall:
- (a) submit the proposed rates, fees, or other amount and cost analysis to the Rate Committee established in Section 63A-1-114; and
 - (b) obtain the approval of the Legislature as required by Section 63J-1-410.
- (4) The director shall conduct a market analysis by July 1, 2005, and periodically thereafter, of proposed rates and fees, which analysis shall include a comparison of the division's rates and fees with the fees of other public or private sector providers where comparable services and rates are reasonably available.

Amended by Chapter 183, 2009 General Session

63A-4-103 Risk management -- Duties of state agencies.

- (1)
- (a) Unless specifically authorized by statute to do so, a state agency may not:
 - (i) purchase insurance or self-fund any risk unless authorized by the risk manager; or
 - (ii) procure or provide liability insurance for the state.
 - (b)
 - (i) Notwithstanding the provisions of Subsection (1)(a), the State Board of Regents may authorize higher education institutions to purchase insurance for, or self-fund, risks associated with their programs and activities that are not covered through the risk manager.
 - (ii) The State Board of Regents shall provide copies of those purchased policies to the risk manager.
 - (iii) The State Board of Regents shall ensure that the state is named as additional insured on any of those policies.
- (2) Each state agency shall:
- (a) comply with reasonable risk related recommendations made by the risk manager;

- (b) participate in risk management training activities conducted or sponsored by the risk manager;
 - (c) include the insurance and liability provisions prescribed by the risk manager in all state contracts, together with a statement certifying to the other party to the contract that the insurance and liability provisions in the contract are those prescribed by the risk manager;
 - (d) at each principal design stage, provide written notice to the risk manager that construction and major remodeling plans relating to agency buildings and facilities to be covered by the fund are available for review, for risk control purposes, and make them available to the risk manager for his review and recommendations; and
 - (e) cooperate fully with requests from the risk manager for agency planning, program, or risk related information, and allow the risk manager to attend agency planning and management meetings.
- (3) Failure to include in the contract the provisions required by Subsection (2)(c) does not make the contract unenforceable by the state.

Amended by Chapter 324, 2010 General Session

63A-4-104 Course-of-construction insurance for facilities constructed by This is the Place Foundation.

The risk manager may provide course-of-construction insurance for facilities constructed by This is the Place Foundation at This is the Place State Park and bill the Division of Parks and Recreation for the cost of the insurance.

Enacted by Chapter 225, 1998 General Session